

VZCZCXRO2379  
PP RUEHCHI RUEHDT RUEHHM  
DE RUEHJA #1037/01 1020740  
ZNR UUUUU ZZH  
P 120740Z APR 07  
FM AMEMBASSY JAKARTA  
TO RUEHC/SECSTATE WASHDC PRIORITY 4304  
INFO RUEHXS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS  
RUEHBK/AMEMBASSY BANGKOK 7860

UNCLAS SECTION 01 OF 03 JAKARTA 001037

SIPDIS

FOR EAP/MTS; EB/TPP/IPE JBOGER, CLACROSSE  
COMMERCE FOR 4430/BERLINGUETTE AND PETERS  
COMMERCE PASS USPTO FOR URBAN AND FOWLER  
DEPT PASS USTR FOR DKATZ, JGROVES, RBAE, CCOLLEY  
EMBASSY BANGKOK FOR JNESS

SIPDIS

E.O. 12598: N/A  
TAGS: [KIPR](#) [ETRD](#) [KCOR](#) [ID](#)  
SUBJECT: INDONESIA - 2007 IPR PROJECT PROPOSALS

REF: Jakarta 475

11. Summary: Embassy Jakarta requests \$640,000 in INL/EB funding to support the continued employment of our two DOJ-ICITAP Senior IPR Technical Advisors for a second and final year. The success of these advisors has been critical to Indonesia's recent improvements in IPR protection and enforcement as well as to our ability to leverage the Special 301 process. Their continued efforts on the ground will be all the more important as we approach a critical juncture where the GOI must act on mounting forensic evidence against optical disk factories. Without their continued presence, we fear the GOI will lack the capacity and imperative to take these hard steps, and we may lose an important opportunity to build on current momentum. End Summary.

12. With FY 2005 INL/EB Intellectual Property Rights funding, Embassy Jakarta's Econ Section and its DOJ-ICITAP offices have employed and co-managed two senior IPR technical advisors. For roughly the last six months the two advisors have provided technical assistance and training to the Indonesia Ministry of Industry (MOI) and National Police on implementation of Indonesia's 2004 Optical Disk Regulations. Both advisors are foreign experts who have brought with them years of experience on IPR protection and enforcement in Indonesia, as well as long-established relationships with key Government of Indonesia (GOI) and intellectual property (IP) industry contacts. From their first weeks on the job last August and September, both were able to engage the GOI effectively and produce tangible results quickly.

Optical Disk Monitoring Team Advisor  
-----

13. While both advisors coordinate their efforts closely and share some responsibilities, the MOI advisor has focused his efforts primarily on the further development and training of the GOI's recently established Optical Disk Monitoring Team (ODMT). During the past six months, he has achieved a number of impressive accomplishments:

-- Provided training and other capacity building to members of the ODMT, including 16 hours of theory and 60 hours of field training at registered optical disk (OD) factories;

-- Coordinated with IFPI to secure source identification codes for the MOI to assign to registered factories;

-- Held public awareness seminars and other events for the media and owners of Indonesia's 29 registered OD factories to inform them of the requirements of the new OD regulations;

-- With assistance from IPFI, organized, training inspection visits to OD factories in which four separate teams visited all registered

factories to assess their compliance and collected large numbers of exemplars from 147 registered CD and/or DVD production lines. IFPI is now examining these exemplars at its forensic lab in London and preliminary results are providing some clear evidence of piracy at some factories;

-- Refined the ODMT's data base to include allow for the recording of more detailed and useful information related to OD factory inspections;

-- Established an ODMT office within the MOI with computers, digital cameras, inspection kits, storage other ancillary equipment, and one full-time administrative assistant to enter data from factory inspections in the ODMT database;

-- Convinced the MOI to assign four full-time staff to lead the ODMT and coordinate with other team members and agencies, such as the police;

-- Convinced the MOI to place tamper proof seals on equipment that factories claim remain idle;

-- Established procedures whereby the MOI now sends warning letters to factories suspected of piracy and, in the future, will sanction factories that remain non-compliant;

-- Collaborated with the other IPR senior technical advisor for the police in organizing a workshop for the cabinet and working officials of the National IPR Task Force on OD regulation implementation and other broader IPR topics. Those attending the event included IP industry representatives, as well as IPR enforcement officials from neighboring countries;

Police Advisor

JAKARTA 00001037 002 OF 003

-----

14. During the last six months, the senior technical advisor for the police has had equally important successes in working directly with the police -- once the weakest link in the GOI's interagency IPR enforcement efforts -- as well as other key GOI and industry players:

-- Identified targets for retail, distributor and factory raids, including for newly discovered factories and burner operations;

-- Advised police on conducting raids and arrest, case investigation and management, rules of evidence, and other IPR enforcement related matters. (Note: As a result of Indonesia police human rights violations, the USG currently requires special vetting procedures for training for Indonesia's police. This has slowed to some degree the pace of police trainings, but they should intensify in the coming months. End Note);

-- In collaboration with Embassy's Resident Legal Advisor (RLA), approached the Indonesia's Attorney General's Office (AGO) to establish an IPR task force within the AGO with specially designated prosecutors as members. One the task force is established, the advisor will hold joint workshops on case development and prosecution for the ODMT, police, prosecutors and judges. (Note: INL/EB has provided Embassy RLA with \$100,000 in FY 2006 INL/EB funds to support the creation of the task force and related capacity building programs. End Note);

-- Through IFPI forensic evidence, and other sources, developed a map showing key individuals involved in piracy in Indonesia, and the linkages between them and others;

-- Working with IFPI and the Indonesian Police to establish an in-country forensic lab for the GOI, which will most likely be housed at the Metropolitan Police Special Crimes Division;

GOI at a Turning Point

-----

15. As noted in Embassy's recent Special 301 submission (ref A), GOI leadership continues to demonstrate the political will to improve IPR protection and enforcement. The Police Chief has made IPR enforcement and raids a top ten priority, and President Yudhoyono has called for the legalization of all GOI software. More recently, we learned from Ministry of Justice Directorate General for IPR Abdul Bari Azed that the GOI is working with a private Jakarta-based University to launch on April 19 a one-year Masters program in IP. According to Bari, the program will train future academics, law enforcement and GOI officials, technical advisors and attorneys.

16. The coming year will likely be a make-or-break year in terms of the GOI's longer-term resolve to address piracy and other IP violations. Specifically, as forensic and other evidence against OD factories mounts, the GOI will come under increasing pressure to act. Given the powerful interests involved, GOI interagency coordination will be critical to a successful outcome, and our MOI and Police advisors and work with the AGO will be invaluable. With our technical support in these three key areas, and the incentives from the Special 301 process, the GOI will find itself in a position where, if it does not act, it can blame only itself. However, without our ongoing support during the coming year, particularly that of our two technical advisors, the GOI will likely lack the technical assistance and perhaps even the sense of imperative to take these next, hardest steps.

#### Request to Retain Technical Advisors for Second Year

-----

17. Based on the successes to date of our two IPR senior technical advisors and the critical juncture at which we have arrived, Embassy Jakarta urges INL and EEB to consider funding for these two positions for another year. (Note: The MOI position terminates in August and the Police position in September. End Note.) The positions and their achievements represent a creative approach to the unique IPR challenges in Indonesia. They have been critical to our successful efforts over the past two years to leverage the Special 301 process (including two consecutive Out-Cycle-Reviews), and they will be equally important for this upcoming critical period.

18. DOJ-ICITAP reports that the base salaries and benefits for both positions would be roughly \$440,000 for a second year. In addition, we would hope that some programming resources, perhaps as much as \$200,000, could also be attached to the positions to support their

JAKARTA 00001037 003 OF 003

work and supplement the \$100,000 already allocated to Embassy's RLA. Those programming funds would be employed as follows:

Those programming funds would be employed as follows:

-- Two Senior Technical Advisors, four locally employed Indonesian staff & Program support -- \$442,000.

-- Program deliverables, capacity building training, limited equipment donations and participant travel -- \$198,000

19. This budget will serve to facilitate continuity of current term achievements and provide a means to conclude the programs, while addressing requests for extended assistance from the GOI.

The goals and objectives for the second term include:

#### IPR Program:

A) Support guide and assist the GOI in establishing an Optical Disk forensic facility.

B) Mentor police with long term enforcement strategies and sustained outcomes.

C) Assist police with identifying illegal, unregistered OD factories.

D) Assistance and capacity building with border control authorities.

E) Assist in developing liaison between police, prosecutors and the AGO.

F) Provide advice to IPR stakeholders.

G) Assist the ODR program as required.

ODR program:

A) Mentor and assist the Department of Industry inspection team further in carrying out regular compliance inspections of OD factories.

B) Provide guidance and Assistance in methods of collection and storage of exemplars from OD production lines to support a forensic database.

C) Support the DOI in updating the database of factory information and mentor the team in reporting techniques and following up on non-compliance issues.

D) Guide and mentor the DOI inspection team towards having all registered factories fully compliant with the OD regulations by project end.

E) Mentor and train the full time inspection team members to be capable of replicating training and best business practice for OD factories.

F) Provide input and assistance to the IPR program on issues relating to OD regulation.

G) Compile a complete Guideline book of all training materials and provide this to the DOI and DGIPR.

HEFFERN